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Viral DRM LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

VIRAL DRM LLC,

Plaintiffs,

v.

THE YOUTUBE UPLOADERS LISTED ON
SCHEDULE A,

Defendant.

CASE NO.: 3:23-cv-05977-JSC

DECLARATION OF BRANDON CLEMENT

I, Brandon Clement, declare and say:

1. I am a principal and one of the owners of Viral DRM LLC. Viral DRM is an Alabama limited liability company that helps clients protect the copyright to video content, especially content depicting extreme weather events. Viral DRM is a digital rights management company that represents clients that syndicate content to international media organizations, production companies and other commercial entities.

2. I make this declaration in support of Viral DRM's motion for leave to serve a subpoena to identify new YouTube channel uploaders.

3. Viral DRM's investigation into the piracy of its copyrighted works by the YouTube Uploaders Listed on Schedule A to the Complaint in this case is ongoing. Since this case was filed,

1 Viral DRM has identified **64** YouTube channels that have copied and pirated a total of **81** original
2 works of authorship created by me or by one of the other authors/creators who exclusively licensed
3 to Viral DRM their works for distribution and syndication pursuant to written agreements that
4 provide Viral DRM with the necessary rights to sue for the infringements at issue in this case. As
5 with the works already at issue in this case, many of the works discovered recently contained
6 watermarks and embedded metadata copyright management information identifying them as the
7 property of WXchasing, Viral DRM or the video's creators.

8 4. Attached hereto as Exhibit 1 to my declaration is a list of YouTube channels and
9 YouTube videos that Viral DRM recently discovered, all of which show extreme weather event
10 videos, and all of which infringe upon Viral DRM's copyrights.

11 5. The channels listed in Exhibit 1 are extremely popular and valuable with over
12 **96,400,244** subscribers, numerous videos, and videos with over **40,088,975,869** views or more.
13 These are very valuable YouTube channels that earn significant revenue from the display of pirated
14 video content.

15 6. For the reasons explained below, Viral DRM believes that the YouTube channels
16 listed on Exhibit 1 to my declaration are the same as or working together with and in concert with
17 the defendants identified in Schedule A to the complaint.

18 7. The reasons why Viral DRM believes that the YouTube Channels and YouTube
19 uploaders listed on Exhibit 1 are working with the defendants identified in Schedule A are as
20 follows:

- 21 a. The **extreme weather events** covered by the videos hosted on the channels
22 listed in Exhibit 1 are the same as videos shown by other channels listed in
23 Exhibit 1 and the same as the videos that were the subject of the DMCA
24 notices and counter notices at issue in the complaint in this case;
- 25 b. The **video clips of the extreme weather events** hosted on the channels listed
26 in Exhibit 1 are the same the video clips shown by other channels listed in
27 Exhibit 1 and the same as the video clips that were the subject of the DMCA
28 notices and counter notices at issue in the complaint in this case;

- 1 c. The **video editing style** of the videos hosted on the channels listed in Exhibit
2 1 are the same as the style of the videos shown by other channels listed in
3 Exhibit 1 and the same as the videos that were the subject of the DMCA
4 notices and counter notices at issue in the complaint in this case;
- 5 d. The **thumbnails and thread titles** of the videos hosted on the channels listed
6 in Exhibit 1 are the same or very similar to the thumbnails and thread titles for
7 the videos shown by other channels listed in Exhibit 1 and are the same or
8 very similar to the thumbnails and thread titles for the videos that were the
9 subject of the DMCA notices and counter notices at issue in the complaint in
10 this case;
- 11 e. The **video descriptions** of the videos hosted on the channels listed in Exhibit
12 1 are the same or almost identical to the video descriptions of the videos
13 shown by other channels listed in Exhibit 1 and the video descriptions are the
14 same or nearly identical for the videos that were the subject of the DMCA
15 notices and counter notices at issue in the complaint in this case;
- 16 f. The **channel descriptions** of the channels listed in Exhibit 1 are the same or
17 almost identical to the channel descriptions of the other channels listed in
18 Exhibit 1 and channel descriptions are the same or nearly identical for the
19 videos that were the subject of the DMCA notices and counter notices at issue
20 in the complaint in this case;
- 21 g. The **videos in the channels and other aspects of the channels and videos**
22 **appear to be created with artificial intelligence (AI) technology** for the
23 channels and videos listed in Exhibit 1 and the channels and videos that were
24 the subject of the DMCA notices and counter notices at issue in the complaint
25 in this case; and
- 26 h. The **voiceover voices** are the same for the videos hosted on the channels listed
27 in Exhibit 1 as the other videos and channels listed in Exhibit 1 and are the
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1 same as the video clips that were the subject of the DMCA notices and
2 counternotices at issue in the complaint in this case.

3 8. As with the works already identified in the complaint in this case, all the works at
4 issue in this case are valuable for displaying on YouTube and Facebook. All the works at issue show
5 dramatic weather events that make for compelling and interesting viewing by interested viewers
6 worldwide. All the works at issue also can be used to earn money from advertising on YouTube.
7 That is why the YouTube uploaders copied the works.

8 9. Viral DRM has a reasonable, good faith belief that at least some of the defendants
9 named in this case listed on Schedule A to the complaint are working together with the newly
10 discovered YouTube Uploaders or are the same as the newly discovered YouTube Uploaders.

11 10. Viral DRM also has a reasonable, good faith belief that at least some of the
12 defendants named in this case listed on Schedule A to the complaint are misrepresenting where they
13 are located. Some of the channel's state they are located in the United States but after diligent
14 searches, Viral DRM is unable to determine where those channels are located. This subpoena will
15 allow Viral DRM to find exactly where the channels are located so the channels can be served with
16 the complaint.

17 11. Viral DRM seeks to obtain the true identities of the defendants pursuant to subpoena
18 to Google, LLC under 17 U.S.C. § 512(h) without notice to the defendants so that these new
19 uploaders may be expeditiously identified and added to this case.

20 12. All the channels listed on Exhibit 1 hereto are monetizing the videos they stole from
21 Viral DRM. Monetizing videos on YouTube involves enabling advertisements to be displayed on
22 your videos, which allows you to earn money through the YouTube Partner Program payable to the
23 channel through their Google AdSense accounts.

24 13. The proposed subpoena submitted to the Court includes requests for information
25 about the identities of the YouTube channel owners listed on Exhibit 1 and the identities of the
26 YouTube AdSense Account holders who receive advertising revenue for videos displayed on those
27 channels.

1 I declare under perjury under the laws of the United States of America that the foregoing is
2 true and correct.

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4 Executed on December 20, 2023.

5
6 *Brandon Clement*

7  VERIFIED
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